

REMARKS

I. Introduction

Claims 1-11 remain pending in the application. The Office action rejects claims 1-11 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,369,705 to Bird (hereinafter “Bird”) in view of U.S. Patent No. 7,185,194 to Morikawa et al. (hereinafter “Morikawa”). The applicants respectfully traverse the rejections and respond as follows.

II. Declaration Under 37 C.F.R. § 1.131

Applicants have submitted concurrently with this amendment a declaration of Christian Huitema, Alexandru Gavrilescu, Noel W. Anderson, and Xiaohai Zhang under 37 C.F.R. § 1.131. The declaration establishes a conception date and reduction to practice for the invention disclosed and claimed in the present application prior to the May 16, 2001 effective date of Morikawa. Because the declaration effectively swears behind Morikawa, that prior art reference is not considered in the § 103(a) discussion set forth below.

III. Rejection of Claims 1-11 under § 103

In light of the Declaration Under Rule 37 C.F.R. § 1.131 submitted herewith, Bird is the sole remaining cited prior art reference. The Examiner does not allege obviousness over Bird in view of any other reference, an implicit disclosure, reliance on scientific theory, reliance on common knowledge in the art, or “well known” prior art. Because the Examiner admits that Bird does not disclose limitations of at least claim 1, the reference does not render these claims unpatentable. Therefore, claim 1 is in allowable form. Because claims 2-11 depend from an allowable claim, it is believed that all pending claims are in allowable form.

IV. Conclusion

In view of the above remarks, the applicants respectfully request favorable re-consideration and passage to issuance of this application. The applicants invite the examiner to contact the undersigned attorney with any questions regarding this response or the

application as a whole. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855.

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Respectfully submitted,

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